

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ADRIAN ALAINE WORLEY
6391 Rancho Mission Rd, Unit 5
San Diego, CA 92108

Case No. 2012-227

OAH No. 2012020119

Registered Nurse License No. 751985

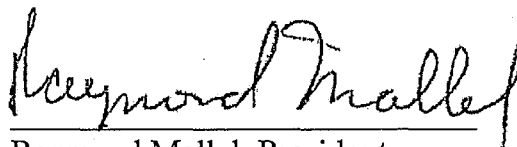
Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on March 21, 2013.

IT IS SO ORDERED this 19th day of February, 2013.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ADRIAN ALAIN WORLEY, R.N.

Registered Nurse License No. 751985,

Respondent

Case No. 2012-227

OAH No. 2012020119

PROPOSED DECISION

This matter came on regularly for hearing before Carla Nasoff, Administrative Law Judge, Office of Administrative Hearings at San Diego, California on September 17, 2012.

Deputy Attorney General Karen Gordon represented complainant.

Stacie L. Patterson, Attorney at Law, represented Adrian Alain Worley (respondent) who was present throughout the hearing.

The matter was submitted on September 17, 2012.

INTRODUCTION

The accusation alleged unprofessional conduct for the following: (1) Disciplinary action of respondent's registered license issued by another state; (2) Unprofessional Conduct – a 2009 positive drug screen test for marijuana at her place of employment while working as a registered nurse. The complainant requested revocation or suspension of respondent's registered license and an order to pay the nursing board the reasonable costs of the investigation and enforcement of this case.

On March 14, 2009, while living in Mississippi, respondent ended a long-time relationship with her boyfriend, attended a friend's party and smoked marijuana. Three days later, while working as a registered nurse, respondent tested positive for marijuana during a random drug test conducted at her place of employment. Respondent was terminated from her employment as a registered nurse on March 24, 2012. On April 21, 2009 respondent applied for a

license to practice as a registered nurse in California. On April 28, 2009, respondent voluntarily surrendered her Mississippi registered nurse license which had the same effect as a revocation.

Since 2009, respondent testified that she has practiced as a registered nurse in California without incident. She has undergone voluntary bimonthly drug testing since December 2011 and all test results have been negative. She submitted multiple character witness declarations of those individuals who knew respondent well and knew of the allegations in the accusation. The recommendations provided respondent with unequivocal support. Respondent provided evidence of mitigation and significant rehabilitation. A 2009 clinical assessment, conducted at the request of the Mississippi Board of Nursing, revealed that respondent had a "low probability of having a substance dependence disorder." Based on the totality of the facts and circumstances, issuing a probationary license with standard terms and conditions would provide the necessary protection of the public.

FACTUAL FINDINGS

Jurisdictional Matters

1. On October 11, 2011, the accusation against respondent was filed by Louise R. Bailey, M.ED., R.N., Executive Officer for the Board of Registered Nursing, (the Board), Department of Consumer Affairs, State of California.

2. On June 16, 2009, the Board issued registered nurse license number 751985 to respondent. At all relevant times this license was in full force and effect. The license will expire on April 30, 2013, unless renewed or revoked.

Revocation of License Issued by Another State

3. On March 17, 2009, respondent tested positive for marijuana while she worked as a registered nurse in Mississippi. On April 4, 2009, respondent underwent an assessment by a licensed professional counselor, Konstantina Gilbert, LPC. Ms. Gilbert interviewed respondent and prepared a detailed report to the Mississippi Board of Nursing regarding respondent's history of drug use, legal history, and various psychological assessments. Ms. Gilbert wrote, "The first time she (respondent) smoked marijuana was when she was 16 years old." Respondent smoked marijuana once or twice during high school and again on March 15, 2009. Ms. Gilbert's report indicated that when respondent discovered that her ex-boyfriend moved in with his new girlfriend near respondent's home, respondent went to a party, got drunk and smoked marijuana. Three days later she was drug tested at work and the results were positive. "Adrian reports that she knows that she made a poor choice and accepts responsibility for her actions of smoking marijuana. Adrian Worley does not meet the criteria for substance dependence as supported by her answers given on the SASSI-3 and the Bio-psych social intake." Ms. Gilbert concluded that respondent had a "low probability of having a substance dependence disorder, however, she did have an elevated defensiveness score." Ms. Gilbert recommended that respondent participate in individual counseling, attend three

12-step meetings a week, be monitored by the Mississippi Board of Nursing with random drug testing and follow the requirements of the Mississippi Board of Nursing as a result of her findings in the assessment.

On April 28, 2009, respondent entered into an Agreed Order with the Mississippi Board of Registered Nursing to voluntarily surrender her registered nurse license. Respondent signed the Agreed Order that stated that respondent engaged in unprofessional conduct in that she tested positive for marijuana at her place of employment as a registered nurse. The order read, "The respondent acknowledges that this surrender of her license/privilege to practice nursing shall have the same effect as a revocation of her license/privilege to practice nursing...After one (1) year from the date the Board ratifies this Agreed Order...the respondent shall be eligible to petition the Board for restoration."

Respondent's Background and Testimony

4. In 2008, respondent graduated from the University of Mississippi Medical Center with a Bachelor of Science in Nursing. From 2008 to 2009, respondent worked as a registered nurse at Baptist Health Systems. From 2009 to 2010, respondent worked as a traveling registered nurse in Santa Ana and San Diego, California. From 2010 to the present, respondent has worked full time as a pediatric oncology nurse with Kaiser Permanente in San Diego.

In early 2009, a seven-year relationship with her ex-boyfriend abruptly ended. Respondent was extremely distraught and testified, "I was young and centered my life around him...I was co-dependent on the relationship...I needed to get as far away from him as possible." On March 14, 2009, she attended a party and smoked marijuana. Respondent testified at the administrative hearing that she never smoked marijuana before or since March 14, 2009, which was in direct contrast to what was written in the psychological assessment performed by Ms. Gilbert.

On March 17, 2009, as a result of a previous inaccurate medication count in her workplace, all nurses in her unit were randomly drug tested. Respondent tested positive for marijuana and was terminated from her employment on March 24, 2009.

On April 21, 2009, respondent applied for a registered nurse license in California and answered the application question "NO" as to whether she ever had disciplinary proceedings against any license as a RN. At the time she applied for her California registered nurse license, her Mississippi had not been surrendered or revoked. Eight days later, on April 28, 2009, respondent signed the Mississippi Agreed Order that resulted in the revocation of her registered nurse license. Respondent applied for her California registered nurse license before she signed the Agreed Order in Mississippi license that resulted in her Mississippi license revocation. In May 2009, respondent moved to California.

On June 16, 2009, the California Board issued respondent a registered nurse license. Respondent worked as a registered nurse in California for the past three years without

incident. Her support systems in California include a life coach, a psychologist, friends, family and steady employment as a registered nurse in the field of pediatric oncology. Respondent testified, "I love working with children." Respondent submitted her employment performance evaluations that described respondent as independent and proficient in all critical core elements without supervision. Respondent testified that she attends church weekly, assists with an outreach group for the elderly and participates in can food drives for the homeless. She regularly meets with her psychologist and has the support of family and friends in San Diego. Many of her colleagues from work are her friends. She no longer associates with those individuals who attended the party in Mississippi where she smoked marijuana. She no longer engages in any illegal drug use and has been law abiding since 2009. Respondent submitted evidence of bimonthly drug testing from U.S. Health Works laboratory from December 2011 to August 2012 and the results were all negative. Although respondent elected to surrender her Mississippi registered nurse license, she testified that she did not understand the significance it had on her California registered nurse license. By all accounts she has been law abiding and an exemplary pediatric oncology nurse since 2009.

Lisa Douglas's Testimony

5. Lisa Douglas is a registered nurse who has known respondent for the past two years. Ms. Douglas worked with respondent in the pediatric unit at San Diego Kaiser Hospital and socialized with respondent once or twice a month. Ms. Douglas was aware of the allegations contained in the accusation filed by the Board and testified that she never saw respondent use drugs or consume any alcohol. She testified that respondent is, "Hard working, extremely professional, caring, compassionate and takes her job very seriously. She is a good nurse and an equally good person. She has a calm demeanor and is respected by her colleagues and physicians in the work place."

Rachel Escudero's Testimony

6. Rachel Escudero is a registered nurse who has known respondent for the past eighteen months. Ms. Escudero worked with respondent in the pediatric unit in San Diego Kaiser Hospital and socialized with respondent. She never saw respondent intoxicated or under the influence of any drugs and never saw respondent impaired while at work. Ms. Escudero testified that respondent is, "Professional, has a positive attitude, and the kids (her patients) love her."

Character Witness Declarations

7. Respondent submitted seven (7) character witness declarations from those who knew her well. Many of the declarations were from those who knew respondent for at least fifteen years and believed her marijuana use in 2009 was completely out of character. The authors of the declarations submitted were aware of the allegations in the accusation. The declarations submitted were from colleagues, friends, church members, a clinical director of Bridges to Recovery, a physician and her roommate. The overall theme of the declarations

was that respondent loved her work as a nurse, was passionate about pediatric oncology and had not repeated the mistake of smoking marijuana.

C. Brent Meador, M.D., a board certified family practice and a specialist in addiction medicine wrote, "Ms. Worley does not fit any of the criteria for a drug abuser."

Konstantina Matheos, the clinical director for Bridges to Recovery wrote, "Ms. Worley does not meet the DSM IV criteria for substance dependence...and does not meet the criteria to be chemically dependent. It appears at this time that she used poor judgment when she smoked marijuana...(and) has a low probability of substance dependence."

Evaluation

8. Respondent was humble, direct, soft-spoken, and provided no excuses for her 2009 conduct that involved her marijuana use. She tearfully described the serious mistake she made in smoking marijuana. Respondent's decision to leave Mississippi was primarily made based on distancing herself from her ex-boyfriend and starting a new life in California. She currently has the support of family, friends and colleagues. She participates in counseling, visits with a life coach, is active in her church and her community. Her clinical skills and interaction with her patients as an oncology pediatric nurse were exemplary. By all accounts, she has remained drug free since 2009.

However, respondent testified at the administrative hearing that she never used marijuana before 2009. This was in direct conflict to the April 2, 2009, report prepared by Konstantina Gilbert, LPC, the clinical director for Bridges to Recovery who interviewed respondent. Ms. Gilbert prepared a detailed assessment and wrote, "She (respondent) reports that the first time she smoked marijuana was when she was 16 years old. She reports in high school she smoked marijuana once or twice...she reports that she had not used marijuana since high school until March 15, 2009."

Therefore, although respondent admitted she made a poor choice and accepted responsibility for her actions when she smoked marijuana in 2009, she failed to truthfully answer the question at the administrative hearing of her past drug use, albeit the use was limited. In addition, respondent's registered nurse license was revoked by another state after she applied for her California registered nurse license. Respondent circumvented the pending license restriction imposed in Mississippi when she applied for her California license eight days before her Mississippi revocation was imposed. Given these two areas of concern, a probationary license is ordered. However, a deviation from the recommended three-year probationary period is ordered because respondent has demonstrated significant rehabilitation. Respondent voluntarily underwent bimonthly drug testing since December 2011 to demonstrate her commitment to remain drug free. Respondent's employment performance evaluations as a pediatric oncology nurse were exemplary and her character reference declarations were detailed and supportive of her rehabilitation efforts. Protection of the public would be achieved with a one-year probationary period with standard terms and conditions including a course in ethics.

Recommendation by Attorney General

9. The Attorney General initially requested revocation and later in the administrative hearing, after hearing the evidence, requested that a three-year (3) probationary period be imposed on respondent with standard terms and conditions.

Cost of Investigation and Enforcement

10. A detailed accounting of the time spent in the investigation and enforcement of this matter was submitted. The reasonable cost of the investigation and enforcement of this case against respondent, recoverable by the board pursuant to Business and Professions Code section 125.3, is \$3,715.

LEGAL CONCLUSIONS

Standard of Proof

1. The standard of proof in this disciplinary proceeding is "clear and convincing evidence." (*James v. Board of Dental Examiners* (1985) 172 Cal.App.3d 1096, 1105.)

Clear and convincing evidence must establish a high probability of the existence of a disputed fact, greater than proof by a preponderance of the evidence. Clear and convincing evidence requires a finding of high probability. Evidence of a charge is clear and convincing when there is a high probability that the charge is true. (*People v. Mabini* (2001) 92 Cal.App.4th 654, 662.)

Statutory Authority

2. Business and Professions Code section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

3. Business and Professions Code section 2750 provides in part that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in the Nursing Practice Act.

4. Business and Professions Code section 2764 provides in part that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

5. Business and Professions Code section 2761, subdivisions (a)(4) provide in part:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action...”

6. Business and Professions Code section 125.3 provides in part that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7. The Recommended Guidelines for Disciplinary Orders and Conditions of Probation for the State of California Board of Registered Nursing contain recommended ranges of discipline for the various violations. The recommended discipline for a disciplinary action against a health care license by another state or licensing board is revocation or revocation stayed with three (3) years probation. However, given the voluminous amount of rehabilitation and sustained recovery, a one (1) year probationary term is imposed.

Rehabilitation

8. Rehabilitation is a state of mind and the law looks with favor upon rewarding with the opportunity to serve one who has achieved reformation and regeneration. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

The amount of evidence of rehabilitation required to justify admission varies according to the seriousness of the misconduct at issue. (*Kwasnik v. State Bar, supra.*, at 1070.)

Respondent's letters of recommendation from colleagues, family and friends were impressive. Three years have passed since his misconduct that gave rise to respondent's marijuana use. Respondent has been law abiding since the incident and by all accounts is an exemplary pediatric oncology nurse. Respondent is active in her church and community.

Respondent's commitment to remain drug free was sincere and she submitted sufficient evidence of bimonthly drug testing since December 2011 and all results have been negative.

A deviation from the recommended three-year probation is warranted based on the abundance of competent evidence of rehabilitation and documentation of her consistent negative drug testing. It is concluded that a one-year probationary term with standard and additional conditions is warranted. The additional conditions of probation include successfully completing a course in ethics and substance abuse.

First Cause for Discipline-Disciplinary Action by Another State

9. Cause for discipline exists, by clear and convincing evidence, pursuant to California Business and Professions Code section 2761, subdivision (a)(4), as respondent engaged in unprofessional conduct that led to the 2009 revocation of her registered license in the state of Mississippi as set forth in Factual Findings 2, 3, 4, 8 and Legal Conclusion 5.

Second Cause for Discipline-Unprofessional Conduct

10. Cause for discipline exists, by clear and convincing evidence, pursuant to California Business and Professions Code section 2761, subdivision (a), as respondent engaged in unprofessional conduct when in 2009 she tested positive for marijuana at her place of employment as set forth in Factual Findings 3, 4, 5, 6, 7, 8, and Legal Conclusion 5.

11. The reasonable cost of the investigation and enforcement of this case against respondent, recoverable by the Board pursuant to Business and Professions Code section 125.3, totals \$3,715 based on Factual Finding 10 and Legal Conclusion 6.

ORDER

IT IS HEREBY ORDERED that registered nurse license number 751985 issued to Adrian Elaine Worley is revoked. However, the revocation is stayed and respondent is placed on probation for **one (1) year** on the following terms and conditions.

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

(1) **OBEY ALL LAWS** - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and

fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

(2) **COMPLY WITH THE BOARD'S PROBATION PROGRAM** - Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

(3) **REPORT IN PERSON** - Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

(4) **RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE** - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when he or she resides outside of California. The respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where he or she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if he/she applies for or obtains a new nursing license during the term of probation.

(5) **SUBMIT WRITTEN REPORTS** - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he or she has a registered nurse license.

(6) **FUNCTION AS A REGISTERED NURSE** - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS - Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to his or her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the Board in writing within seventy-two (72) hours after he or she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after he or she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(8) SUPERVISION - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
- (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.

(d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

(9) **EMPLOYMENT LIMITATIONS** - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If the respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

(10) **COMPLETE A NURSING COURSE(S)** - Respondent, at her own expense, shall enroll and successfully complete a **substance abuse course including marijuana use** (not less than four hours or four continuing education units) and a **nursing ethics course** (not less than four hours or four continuing educational units) relevant to the practice of registered nursing no later than six months prior to the end of his or her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the courses. Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

(11) **COST RECOVERY** - Respondent shall pay to the Board cost associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$3,715. Respondent shall be permitted to pay these costs in a payment plan

approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

(12) VIOLATION OF PROBATION - If a respondent violates the conditions of his/her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of the respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

(13) LICENSE SURRENDER - During respondent's term of probation, if he or she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender his or her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- (2) One year for a license surrendered for a mental or physical illness.

(14) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS - Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including **marijuana**, (except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment.)

(15) SUBMIT TO TESTS AND SAMPLES - Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when he/she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of **marijuana**, or other controlled substances.

~~If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.~~

If respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

All costs of probation monitoring shall be borne by the respondent. Upon successful completion of her **one (1) year probation**, respondent's license shall be fully restored.

DATED: October 12, 2012



CARLA NASOFF
Administrative Law Judge
Office of Administrative Hearings

Exhibit A

Accusation Case No. 2012-227

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RANDY M. MAILMAN
Deputy Attorney General
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5 Los Angeles, CA 90013
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Attorneys for Complainant
7

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2012-227*

11 **ADRIAN ALAINE WORLEY**
12 **1399 9th Ave. Apt. 1417**
13 **San Diego, CA 92101**
Registered Nurse License No. 751985

A C C U S A T I O N

14 Respondent.

15
16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about June 16, 2009, the Board of Registered Nursing issued Registered Nurse
23 License Number 751985 to Adrian Alaine Worley ("Respondent"). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on April 30, 2013, unless renewed.

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4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

5. Section 118, subdivision (b) of the Code provides, in pertinent part:

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action ...”

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Disciplinary Action by the Mississippi Board of Nursing)**

5 9. Respondent is subject to disciplinary action under Code section 2761, subdivision
6 (a)(4), on the grounds of unprofessional conduct in that Respondent's registered nurse license was
7 disciplined by the Mississippi Board of Nursing ("Mississippi Board").

8 10. On or about February 5, 2010, pursuant to the Agreed Order issued by the
9 Mississippi Board, in the disciplinary action entitled *In the Matter of: Mississippi License No. R-*
10 *880632 issued to: Adrian Worley, 101 Worley Drive, Brandon, MS 39042*, the Mississippi Board
11 accepted the voluntary surrender of Respondent's registered nurse license. Respondent agreed
12 that the voluntary surrender of her registered nurse license had the same effect as a revocation of
13 her license to practice nursing. The basis for the Order is as that Respondent submitted to a
14 reasonable suspicion drug screen at her employment, the results of which were positive for
15 marijuana.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct)**

18 11. Respondent is subject to disciplinary action under Code section 2761, subdivision
19 (a), in that Respondent committed acts of unprofessional conduct. The conduct is more
20 particularly described in paragraph 10, above, and herein incorporated by reference.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License Number 751985, issued to Adrian
25 Alaine Worley;

26 2. Ordering Adrian Alaine Worley to pay the Board of Registered Nursing the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: October 11, 2011 for Annie Bern
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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